



SoCAL IP LAW GROUP LLP
310 N. WESTLAKE BLVD. STE 120
WESTLAKE VILLAGE CA 91362

In re Application of: :
KIMURA, Syuji, et al. : DECISION ON PETITION
U.S. Application No.: 10/590,644 : (37 CFR 1.55(c))
PCT No.: PCT/JP2005/002156 :
International Filing Date: 14 February 2005 :
Priority Date: 27 February 2004 :
Attorney Docket No.: SI08-P065676US :
For: PLL CIRCUIT :
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This decision is issued in response to the "Petition under 37 CFR 1.55(c)" filed on 11 August 2010. The petition seeks acceptance of an unintentionally delayed foreign priority claim directed to prior-filed Japanese application number 2004-055280.

For the reasons set forth below, the petition is **DISMISSED AS MOOT**.

The petition procedure set forth in 37 CFR 1.55(c) applies only to delayed claims of priority "under 35 U.S.C. 119(a)-(d) or 365(a);” it does not apply to foreign priority claims raised in an international application, which are made pursuant to 35 U.S.C. 365(b). Moreover, the four-month deadline for presenting a foreign priority claim set forth in 37 CFR 1.55(a)(1)(i) expressly applies only in "an original application filed under 35 U.S.C. 111(a)," not to a national stage application filed under 35 U.S.C. 371.

The present application is the U.S. national stage of international application PCT/JP2005/002156 filed under 35 U.S.C. 371. With respect to a national stage application, 37 CFR 1.55(a)(1)(ii) states the following:

In an application that entered the national stage from an international application after compliance with 35 U.S.C. 371, the claim for priority must be made during the pendency of the application and within the time limit set forth in the PCT and the Regulations under the PCT.

As evident from the international publication of PCT/JP2005/002156, a foreign priority claim directed to Japanese application number 2004-055280 was properly and timely presented in the international application, and a review of the present national stage application file confirms that the International Bureau (IB) has communicated to the United States Patent and Trademark Office (USPTO) the certified copy of the foreign priority application submitted during the international phase of the application.

In view of the above, and pursuant to 37 CFR 1.55(a)(1)(ii), applicants timely presented a foreign priority claim directed to Japanese application number 2004-055280 in the present

national stage application. A petition under 37 CFR 1.55(c) requesting acceptance of an unintentionally delayed foreign priority claim is therefore unnecessary in the present application.

The \$1,410 petition fee filed with the present petition will be refunded to applicants.

It is noted that the declaration filed herein on 25 July 2008 does not comply with 37 CFR 1.63(c)(1) and (2) because it fails to set forth the mailing address and residence of the inventors and the foreign priority claim. A supplemental declaration in compliance with 37 CFR 1.63 or an acceptable application data sheet (ADS) containing the foreign priority claim and the address and residence information would resolve the defect in the declaration; however, a supplemental declaration has not been submitted herein, and the ADS filed with the present petition on 11 August 2010 (which includes the required information) is unacceptable as filed because it was not signed by the agent.

The application is being referred to GAU 2817 for further examination in accordance with this decision.



Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3296